



Before: Judge Sun Xiangzhuang

Registry: Geneva

Registrar: René M. Vargas M.

REID

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON AN APPLICATION FOR
SUSPENSION OF ACTION PENDING
MANAGEMENT EVALUATION**

Counsel for Applicant:

Self-represented

Counsel for Respondent:

UNHCR

Introduction

1. The Applicant, a former staff member of the Office of the United Nations High Commissioner for Refugees (“UNHCR”) in Geneva, requests suspension of action, pending management evaluation, of the decision to terminate her indefinite appointment effective 30 August 2023.
2. For the reasons set out below, the application for suspension of action is dismissed.

Facts

3. On 30 May 2023, the Applicant was informed of the decision to terminate her indefinite appointment effective 30 August 2023.
4. On 5 July 2023, the Applicant was informed of the administrative formalities in relation to her separation from UNHCR.
5. On 10 August 2023, the Applicant requested management evaluation of the contested decision.
6. On 28 August 2023, the Deputy High Commissioner informed the Applicant that her request for management evaluation was not receivable. However, he addressed the merits of her request “without prejudice to UNHCR’s right to invoke receivability at a later stage”.
7. On 31 August 2023, the Applicant filed the present application for suspension of action.

Consideration

Receivability

8. The issue for consideration is the receivability of the present application. In *Christensen* 2013-UNAT-335 para. 20, the United Nations Appeals Tribunal (“the Appeals Tribunal”) held that “the UNDT is competent to review its own competence or jurisdiction in accordance with Article 2(6) of its Statute” when determining the receivability of an application.

9. The Appeals Tribunal further stated that “this competence can be exercised even if the parties or the administrative authorities do not raise the issue, because it constitutes a matter of law and the Statute prevents the UNDT from receiving a case which is actually not receivable” (see *Christensen*, para. 21).

10. Considering the above, the Tribunal will proceed to review the receivability of the present application without serving it to the Respondent and requesting his reply.

11. Under art. 2.2 of the Tribunal’s Statute and art. 13.1 of its Rules of Procedure, the Tribunal may suspend the implementation of a contested administrative decision during the pendency of management evaluation where the decision appears *prima facie* to be unlawful, in case of particular urgency, and where its implementation would cause irreparable damage. These three requirements are cumulative; in other words, they must all be met in order for a suspension of action to be granted.

12. It is clear from the case record that the Applicant received a response to her request for management evaluation on 28 August 2023. Therefore, since there is no longer an ongoing examination of the Applicant’s request for management evaluation, the application for suspension of action is moot.

13. The Tribunal also notes that while the Applicant’s separation from service was effective on 30 August 2023, she filed her application for suspension of action on 31 August 2023. At the time of that filing, the contested decision had already been implemented and there was no longer an administrative decision open for suspension.

Conclusion

14. In view of the foregoing, the application for suspension of action pending management evaluation is dismissed.

(Signed)

Judge Sun Xiangzhuang

Dated this 6th day of September 2023

Case No. UNDT/GVA/2023/047

Order No. 116 (GVA/2023)

Entered in the Register on this 6th day of September 2023

(Signed)

René M. Vargas M., Registrar, Geneva